

1990

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

DIRECTOR OF PUBLIC PROSECUTIONS BILL 1990

SUPPLEMENTARY EXPLANATORY MEMORANDUM

(Circulated by the authority of  
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Attorney-General)

## DIRECTOR OF PUBLIC PROSECUTIONS BILL 1990

### OUTLINE

The Director of Public Prosecutions Bill 1990 (the Bill) proposes legislation to establish the ACT Director of Public Prosecutions. The following amendments to the Bill correct two unintended but possible results of the Bill in the form it was introduced. They are technical and do not change any of the underlying objects or principles which the Bill reflects.

### CLAUSE NOTES

#### Amendments to subparagraphs 6(1)(a)(i) and (ii)

Paragraph 6(1)(a) is intended to confer on the Director the function of prosecuting indictable offences, whether on indictment in the Supreme Court or summarily in the Magistrates Court. A strict reading of subparagraphs 6(1)(a)(i) and (ii) may not include indictable offences which are prosecuted summarily under section 477 of the Crimes Act 1900 (NSW) in its application in the Territory or similar legislation. Section 477 allows specified indictable offences, which normally have to go to the Supreme Court, to be tried in the Magistrates Court if certain statutory criteria are met. The insertion of the words "or summarily" in subparagraphs 6(1)(a)(i) and (ii) will ensure that the Director can prosecute indictable offences summarily in appropriate circumstances.

#### Amendment to subclause 7(6)

The object of subclause 7(6) is to give the Director a discretion to discontinue the prosecution of a person who has been committed for trial but has not yet been convicted or acquitted. As currently worded, the bounds of the discretion conferred by subclause 7(6) are uncertain. The amended subclause 7(6) spells out expressly what the proposed discretion is to be and therefore gives legislative guidance to courts and the Director.